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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,083	08/11/2006	Marc Theisen	10191/3760	1555
26646 7590 11/26/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
PECHT, JORGE O				
ART UNIT		PAPER NUMBER		
3664				
MAIL DATE		DELIVERY MODE		
11/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,083

Applicant(s)

THEISEN ET AL.

Examiner

Jorge O. Peche

Art Unit

3664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Receipt is acknowledged of Applicant argument/remarks filed on August 18, 2008. Claims **5-10** are pending and an action on the merits is as follows.

Applicant's arguments with respect to claims **5-10** have been considered but are moot in view of the same ground(s) of rejection. Applicant had added **claims 11-14**.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim **1** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The invention fails to disclose "the calculated time is calculated as a function of a collision velocity" (see page 3, par 2; page 4, par. 1-3).

Claims **11-14** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

invention. The invention fails to disclose "an offset" and "the offset being inversely proportional to the collision velocity" (see page 4, par 2).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **5-10** are rejected under 35 U.S.C. 102(b) as being unpatentable over **Takaya et al. (Patent No.: 5,497,327)**.

Regarding **claim 5**, Takaya discloses a method for protecting the vehicle occupant in a vehicle collision. The method comprises the steps of:

- Activating an occupant restraint system (R) as a function of a deceleration signal (1) (see col. 3. lines 7-41; Figure 1)
- Initiating an activating process when a deceleration signal exceeds a threshold level (Go) (noise threshold) at an operation time (FT) (triggering time). A time (to) is calculated to determine the required time for a deceleration signal (g') (collision signal) to exceed the threshold level (G0), (noise threshold). Time (to) is taken into account to determine the operation time (FT) (triggering time) of an occupant restrain system. Furthermore, the time (to) is calculated as a function of the input deceleration signal (g) or

deceleration sensor (1), which is proportional to a vehicle collision velocity (see abstract; col. 5, lines 4-col.6, line 20; Figures 6-7).

Regarding **claim 6**, Takaya discloses an operation timing (FT) of an occupant restraint system (R) taking into account an offset constant (see col. 5, lines 65- col. 6, line 11).

Regarding **claims 7-8**, Takaya discloses a method for calculating an operating time (triggering time) as a function of a deceleration sensor signal (collision velocity) and crash types. Furthermore, a speed collision (collision velocity) is calculated with the aid of deceleration sensor (see abstract, col.3, line 62 – col. 4, line 45; Figures 3-4).

Regarding **claims 9-10**, Takaya discloses a method for calculating an operating time (FT) (triggering time) as a function of a deceleration sensor signal (collision velocity) and crash type. A speed collision (collision velocity) is calculated with the aid of deceleration sensor (see abstract, col.3, line 62 – col. 4, line 45; Figures 3-4). Furthermore, Takaya discloses an operation timing (FT) (triggering time) of an occupant restraint system (R) taking into account an offset constant (see col. 5, lines 65- col. 6, line 11).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **11-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Takaya et al. (Patent No.: 5,497,327)**.

Regarding **claims 11-14**, Takaya discloses an operation timing (FT) of an occupant restraint system (R) taking into account an offset constant (see col. 5, lines 65- col. 6, line 11). As Takaya teaches a control system for an occupant restraint for protecting a vehicle occupant in a collision by implementing an offset constant decided by experiment (see abstract, col. 6, lines 12-19), it would have been obvious to one of ordinary skill in the art at the time made to assume that the offset constant would take into consideration multiple collision velocities or accelerations or decelerations to meet an initial condition before and during the collision for a given time.

Response to Argument

Applicant's arguments filed on August 18, 2008, with respect to the rejections of **claims 5-10** under 35 U.S.C. 102(b) have been fully considered but are not persuasive.

Regarding Applicant argument (page 4, par. 5) "While the rejections may not be agreed with, to facilitate matters, claim 5 has been rewritten, so that it is to a method for triggering a restraint device which includes the features of triggering the restraint device as a function of a collision signal and initiating the triggering when the collision signal exceeds a noise threshold at a triggering time in which calculated time required for the collision signal to exceed the noise threshold is taken into account in determining the triggering time for the restraint device, in which the calculated time is calculated as a

function of a collision velocity." The Examiner respectfully disagrees. Acceleration or deceleration signal are proportional to a vehicle velocity (e.g. collision), Applicant's specification support this basic physical law (see specification page 3, par. 1-2) Applicant is kindly invited to consider the above ground of rejection for more detail comments.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge O. Peche whose telephone number is 571-270-1339. The examiner can normally be reached on 8:30 am - 5:30 pm Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi H. Tran can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge O Peche/
Examiner, Art Unit 3664

November 22, 2008

/KHOI TRAN/
Supervisory Patent Examiner, Art Unit 3664